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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,871	01/24/2002	Ikuo Kawamoto	Q68205	8685

7590 09/25/2003
Sughrue Mion Zinn
Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington, DC 20037

EXAMINER

CHOWDHURY, TARIFUR RASHID

ART UNIT	PAPER NUMBER
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2871

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/031,871

Applicant(s)

KAWAMOTO ET AL. ✓

Examiner

Tarifur R Chowdhury

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kishimoto Keiko (Kishimoto), JP 09-329779 in view of Itoh et al., (Itoh), EP 0457607.**

4. Kishimoto discloses a polarizing member comprising a cholesteric liquid crystal layer combined with a quarter-wave plate.

Kishimoto differs from the claimed invention because he does not explicitly disclose the optical rotatory layer.

Itoh discloses an optical rotator. Itoh also discloses that optical rotator is used fro

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the purpose of causing an azimuthal rotation of linear polarization or of elliptic polarization (page 2, lines 6-8).

Itoh is evidence that ordinary workers in the art would find a reason, suggestion or motivation to use an optical rotator.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the polarizing member of Kishimoto by applying an optical rotator so that azimuthal rotation of linear polarization or of elliptic polarization is achieved, as per the teachings of Itoh.

Further the combination of Kishimoto and Itoh indicate a combination of an optical rotatory layer and an absorption type polarizing plate. It is also specified that the long axis or the short axis of the optically active layer is parallel to the polarizing surfaces of linear polarization due to the cholesteric layer and quarter-wave plate of the front and rear surfaces of the optically rotatory layer and the axis of polarization of the absorption type polarizing plate. However, considering the transmission of polarized light, stipulating the optically active layer so as to match the direction of the polarized wave of polarized light and the axis of polarization, etc., of the polarizing member, including the polarizing plates on either side of the optically active layer, is obvious to a person skilled in the art from the point of view of the technical significance of providing an optically active layer.

Accordingly, claims 1-3 would have been obvious.

As to claim 4, Itoh discloses that the optical rotatory layer is made of a polymer

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containing a nematic liquid crystal monomer and an optically active monomer as components.

As to claims 5 and 6, setting the condition for the degree of optical rotation of the optical rotatory layer to be satisfactory does not constitute a special design restriction. The degree of optical rotation is such as can be decided in accordance with factors such as required performance traits.

As to claims 7-10, having a polarizing member on the back of the visible surface of a liquid crystal cell is common and known in the art and thus would have been obvious to avail a proven structure.

As to claim 11, since Itoh teaches the use of an optical rotatory layer to achieve rotation of polarization and Kishimoto discloses a polarizing member having a cholesteric liquid crystal layer and a quarter-wave plate, it would have been obvious to one of ordinary skill in the art that the modified structure would have the quarter-wave plate in between the cholesteric liquid crystal layer and the optical rotatory layer for achieving rotation of polarization.

Response to Arguments

5. Applicant's arguments filed on 07/08/03 have been fully considered but they are not persuasive.

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Further, it is also respectfully pointed out to applicant that applicant's argument such as, "the present invention shows a case where the axes of the quarter-wave plate are rotated by 45 degrees in the clockwise or counterclockwise direction by means of the optical rotatory layer and that the combination of the optical axis of the quarter-wave plate and the optical axis of the polarizer improve luminance and the various coloring characteristics when viewed from the oblique direction" are irrelevant since none of these features are recited in the claim.

Therefore, the rejection was proper and thus maintained.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

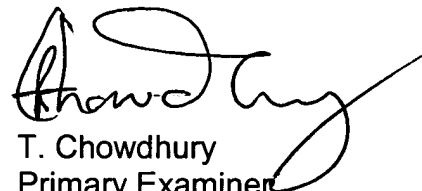
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarifur R Chowdhury whose telephone number is (703) 308-4115. The examiner can normally be reached on M-Th (6:30-5:00) Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on (703) 305-3492. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.



T. Chowdhury
Primary Examiner
Technology Center 2800

TRC
September 22, 2003